

Michael B. Batlan
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Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re

**Michael B. Loveless and
Connie L. Loveless,**

Joint Debtors.

Case No. 02-42719-rld7

**TRUSTEE'S MOTION TO SEVER THE
JOINT CHAPTER 7 BANKRUPTCY
ESTATES**

Michael B. Batlan, the Chapter 7 trustee (the “**Trustee**”) in the above-captioned joint chapter 7 case, moves the Court for an order severing this bankruptcy case into two separate chapter 7 cases of Mr. and Mrs. Loveless.

The sole asset in this joint case (settlement proceeds of a claim of Mr. Loveless) is property of Mr. Loveless’s Bankruptcy Estate only. According to Mr. Loveless, the majority of the claims filed in this joint case are debts owed by Mrs. Loveless only. Mr. Loveless intends to object to payment of certain claims on that ground, though the claims may be valid against Mrs. Loveless’s Bankruptcy Estate. Therefore, in light of the sole asset in Mr. Loveless’s case, the Trustee believes that severing this joint case into two separate bankruptcy cases will allow for the most efficient administration of the separate estates, allowing the Trustee to close Mrs. Loveless’s case as a “no asset” case, and so that Mr. Loveless can file and litigate claim objections solely in his case.

Such severance of the joint estates is appropriate and warranted under the circumstances. *See generally In re Seligman*, 417 B.R. 171 (Bankr. E.D. N.Y. 2009). A joint case is commenced under 11 U.S.C. § 302(a) when, as here, an eligible debtor and such individual's spouse file a joint petition. However, absent substantive consolidation, each debtor-spouse in a joint case constitutes an independent legal entity and has a separate bankruptcy estate. 11 U.S.C. § 302(b); *In re Gale*, 177 B.R. 531, 534 (Bankr. E.D. Mi. 1995).

Therefore, because no creditors have requested substantive consolidation and because severance would benefit the parties and the Court in regards to the efficient administration of the separate Estates, the Trustee respectfully requests that severance be ordered.

DATED: September 16, 2014

/s/ Michael B. Batlan
Michael B. Batlan

CERTIFICATE OF SERVICE

I certify that on the date below, I caused notice of the filing of this **TRUSTEE'S MOTION TO SEVER THE JOINT CHAPTER 7 BANKRUPTCY ESTATES** to be served on interested parties requesting notice through the Court's CM/ECF system, as well as by first class U.S. mail on the following parties:

CitiCapital Commercial Corp
Attn Bkcy Unit
POB 140729
Irving, TX 75014-0729

THOMAS J. PRENOVOST, JR.
on behalf of Wells Fargo Bank
2122 N BROADWAY #200
SANTA ANA, CA 92706

DATED: September 16, 2014.

By: /s/ Michael B. Batlan
Michael B. Batlan